



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

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INTERNAL REVENUE SERVICE NATIONAL OFFICE FIELD SERVICE ADVICE

MEMORANDUM FOR

ASSISTANT DISTRICT COUNSEL

ATTN:

FROM:

DEBORAH A. BUTLER

ASSISTANT CHIEF COUNSEL (FIELD SERVICE)

CC:DOM:FS

SUBJECT:

Agent for the Group

This Field Service Advice responds to your memorandum dated June 7, 1999. Field Service Advice is not binding on Examination or Appeals and is not a final case determination. This document is not to be cited as precedent.

LEGEND:

Old X =

New X =

Y =

HC =

Z =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

ISSUES:

With respect to the proposed waivers and closing agreements: (a) what is the proper language to identify the taxpayer on them and (b) who is the proper party to execute them?

CONCLUSION:

The following language should be used on the waivers and on the closing agreements:

HC, successor to Old X, as agent for the Old X and Subsidiaries consolidated group.

FACTS:

On Date 2, Old X acquired Y by merging Y into Old X with Old X surviving. For Federal income tax purposes, the acquisition was treated as a reverse acquisition within the meaning of Treas. Reg. § 1.1502-75(d)(3). Thus, the consolidated group of which Y had been the common parent was treated as continuing in existence with Old X as the new common parent.

Old X filed a final consolidated Federal income tax return for the tax year ending Date 1, as the parent of the Old X and Subsidiaries consolidated group.

Old X filed a consolidated return for the tax year ending Date 3, as the parent of the group of which Y had been the parent (and which included the former members of the Old X group).

On Date 4, HC, a wholly owned subsidiary of Z, acquired Old X by merging Old X into HC with HC surviving. Upon the merger, Z changed its name to New X. For Federal income tax purposes, the acquisition was treated as a reverse acquisition within the meaning of Treas. Reg. § 1.1502-75(d)(3). Thus, the consolidated group of which Old X had been the common parent was treated as continuing in existence with Z as the new common parent.

On Date 6, New X (formerly known as Z) and Subsidiaries filed an Application for Automatic Extension of Time to File Corporation Income Tax Return (Form 7004) for the year ending Date 5 with the name of the taxpayer as New X and Subsidiaries (fka Old X).

Exam proposes to secure Waivers of Restrictions on Assessment and Collection of Deficiency, Form 870 ("waivers") and Combined Closing Agreements for a Final

Determination of Tax Liability and Specific Matters (“closing agreements”) from Old X for the tax years ending Date 1 and Date 3.

## LAW AND ANALYSIS

### Law

Treas. Reg. § 1.1502-77(a) provides that the common parent, with exceptions not relevant here, shall be for all purposes “the sole agent for each subsidiary in the group, duly authorized to act in its own name in all matters relating to the tax liability for the consolidated return year.”

Treas. Reg. § 1.1502-77(a) further provides that “the common parent in its name will give waivers, give bonds, and execute closing agreements, offers in compromise, and all other documents, and any waiver or bond so given, or agreement, offer in compromise, or any other document so executed, shall be considered as having also been given or executed by each such subsidiary.”

Finally, Treas. Reg. § 1.1502-77 provides that the “provisions of this paragraph shall apply whether or not a consolidated return is made for any subsequent year, and whether or not one or more subsidiaries have become or have ceased to be members of the group at any time.”

### Analysis

For the years ending on Date 1 and Date 3, HC is the proper party to extend the statute of limitations of the group of which Old X was the parent for its tax years ending Date 1 and Date 3. This is because HC became the successor to the common parent of the group for those years and the new common parent of the group as a result of the reverse acquisition. See Union Oil Company of California v. Commissioner, 101 T.C. 130 (1993). See also Treas. Reg. § 1.1502-77(a). Thus, we agree with your recommendation that the following language should be used on the waivers and on the closing agreements:

HC, successor to Old X, as agent for the Old X and Subsidiaries consolidated group.

## CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS:





Please call if you have any further questions.

By: \_\_\_\_\_  
ARTURO ESTRADA  
Acting Branch Chief  
Corporate Branch

cc: